

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BERNARD JAMES HORSTMAN,

Defendant.

CR 13-21-M-DLC

ORDER

FILED

NOV 27 2013

Clerk, U.S. District Court
District Of Montana
Missoula

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on November 7, 2013. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Bernard James Horstman's guilty plea after Horstman appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846 (Count I), as set forth in the Indictment. Defendant further admits the to forfeiture allegation. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II and III of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 24), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Bernard James Horstman's motion to change plea (Doc. 16) is GRANTED.

DATED this 27th day of November, 2013.



Dana L. Christensen, Chief Judge
United States District Court